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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Denzel Devon Vandiver

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-against-

Wal-mart, INC., Kristen Sumner
Quantinisha grove, Eric Butler.
Alvin Berry.

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

Complaint for Violation of Civil Rights

(Prisoner Complaint)

Case No. _____

(to be filled in by the Clerk's Office)

Jury Trial: ☒ Yes ☐ No
(check one)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

When submitted for filing, your complaint should be accompanied by the full filing fee or an application to proceed in *forma pauperis*.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

Denzel Devon Vandiver

All other names by which you have been known:

ID Number

Current Institution

Address

CCHS - Cross Country Home Services
902 Meadow Creek Dr
Anderson, SC, 29621

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

Kristen SwansonJob or Title
(if known)Pharmacy manager.

Shield Number

Employer

Address

Walmart Inc
381a Liberty Hwy
Anderson, SC, 29621



Individual capacity



Official capacity

Defendant No. 2

Name

Eric Butler

Job or Title (if known) Store Manager
 Shield Number _____
 Employer Walmart Inc
 Address 3812 Liberty Hwy
Anderson, SC, 29621

☒ Individual capacity ☐ Official capacity

Defendant No. 3

Name Wal-mart Inc
 Job or Title (if known) N/A
 Shield Number _____
 Employer Wal-mart Inc
 Address 3812 Liberty Hwy
Anderson, SC, 29621

☒ Individual capacity ☒ Official capacity

Defendant No. 4

Name Quantinisha Grove
 Job or Title (if known) Certified Pharmacy Technician
 Shield Number _____
 Employer Wal-mart Inc
 Address 3812 Liberty Hwy
Anderson, SC, 29621

☒ Individual capacity ☐ Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (*check all that apply*):

- ☐ Federal officials (a *Bivens* claim)
- ☐ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

D. Section 1983 allows defendants to be found liable only when they have acted “under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia.” 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (*check all that apply*):

- ☐ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee

This action is brought for discrimination in employment pursuant to Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (race, color, gender, religion, national origin).

The basis for this complaint is I believe I have been discriminated against based on my sex (Male), in violation of Title VII of the Civil Rights Act of 1964, as amended, and subjected to retaliation and wrongful termination.

I was terminated as Pharmacy Technician Associate from Wal-Mart which is located at 3812 Liberty Highway, Anderson, SC, 29621. Store Number 00396. I was employed with Wal-Mart from October 2015 thru June 7th, 2017.

I was assaulted by Quananisha Grove inside Walmart pharmacy, Mrs. Grove shared the assault with Kristen Swanson the Pharmacy Manager that she had hit me over the weekend due to a bagging station's work level being in red. I physically saw and overheard them began to laugh at the safety violation.

I reported the assault by Mrs. Grove and Mrs. Swanson's knowledge of the assault to store manager Eric butler who opened a red book investigation internally with Walmart. During the investigation I requested Mr. Butler look into write-ups given to me by Mrs. Swanson invalidly. Mr. Butler stated to me that he closed the case without notifying me and both parties involved denied the allegations

Kristen Swanson was reported to several members of management Monday, November 7th 2016 for directly stating **"This is why I personally don't like you is because I feel like you are a pathological liar and that you lied about the assault incident to get a Pharmacy Manager (Mrs. Swanson), Pharmacist (Dennis Peterson), Associate (Q. Grove) fired and at this point so you're not confused or expecting it, you're no longer in the Pharmacy Technician University program, I'm removing you and placing robin shiftlet into the program and I wanted to be clear where I stand with you."** The entire management staff was present when I complained about comments Kristen made mere minutes before alerting them and agreed that she should not have made those personal comments deeming them unprofessional to say to an associate no matter what she felt because she had no justifiable proof to her opinions of me. I contacted law officials to investigate the assault on my behalf due to Kristen's statement, Eric Butler told them it was an internal Walmart issue and withheld information from the police, and never addressed the invalid write-ups given to me by Kristen Swanson and witness Alvin Berry.

I was subjected to Retaliation for reporting a safety hazard in the work place that should have resulted in immediate termination according to company policy, Kristen Swanson was aware that I reported the safety hazard and her knowledge of the assault and in retaliation removed me from a South Carolina Training program and replaced with unqualified Caucasian female candidate, who did not meet the criteria to be eligible for acceptance into program.

Kristen Swanson began harassing me with derogatory names such as "drop off whore, honey boo-boo", she continue to harass me by applying a cell phone policy that was not enforced on every associate specifically to me in order to give me my final write up. I was subjected to discrimination by Kristen Swanson who would frequently report to asset protection office and request to watch video footage on specifically me, Kristen Swanson stated she was directly out to get me. I was inflicted mental anguish directly by Kristen Swanson and was diagnosed with severe anxiety where I had trouble sleeping many nights, night terrors, and sweats.

- ☐ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner
- ☒ Other (explain) Victim of retaliation/Discrimination.

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

Unemployment Hearing, Hearing with
Appellate panel witness testimonies.
Date: 7-18-2017 @ 10:15pm

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

Walmart, Anderson, SC, from June 2016
until June 2017, Due to on going issues
from the Assault, Discrimination, Harassment, and Retaliation.

- C. What date and approximate time did the events giving rise to your claim(s) occur?

Assault - Fall in August of 2017 During weekend shift.
Retaliation - Monday November 7th @ 12 pm.
Termination - June 7th 2017 At start of shift.

- D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

I was Assaulted by Q. grave, who told my
Manager, who both found the safety Violation funny.
I was Retaliated against and Removed from a SC

Training program + replaced with Unqualified
 White female candidate by Kristen Swanson. Kristen Swanson
 Harassed + Discriminated against me Applying rules
 only to me, Illegally monitoring me daily and on her days off.

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

Mental Anguish + Severe Anxiety, Hospital Visits
 and Prescription pills. I Required treatment of a
 licensed therapist for recurring night terrors +
 Sweats as recommended by my Doctor for Not being
 Able to sleep longer than an Hour. My Doctor Advised
 me to use a therapist in my Insurance network but
 due to my termination I lost my health Benefits
 and had to suffer mental Anguish with no Ability to be treated.

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

Punitive Damages Maximum - 300,000\$ to punish company.
 Mental Anguish Inflicted - 600,000\$, Court fees/Attorney.
 2,500\$ Credit Card Interest/Tolls... 1,000,000\$ compensatory
 Damages for loss of career. Denied Unemployment Benefits.
 Back pay, Insurance, Bonuses, future pay due to loss of motivation
 to become A licensed Pharmacist for Walmart + pharmacy.

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☐ Yes

☒ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☐ Yes

☒ No

☐ Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☐ Yes

☒ No

☐ Do not know

If yes, which claim(s)?

D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☐ Yes

☒ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☒ No

E. If you did file a grievance:

1. Where did you file the grievance?

2. What did you claim in your grievance?

3. What was the result, if any?

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. *(Describe all efforts to appeal to the highest level of the grievance process.)*

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The “three strikes rule” bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has “on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this “three strikes rule”?

☐ Yes

☒ No

If so, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

- _____
- _____
- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

- B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition. _____

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

- C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

- ☐ Yes
☒ No

- D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____
 Defendant(s) _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

- ☐ Yes
☐ No

If no, give the approximate date of disposition. _____

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*
- _____
- _____

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: _____, 20__.

Signature of Plaintiff

Printed Name of Plaintiff

Prison Identification #

Prison Address

City

State

Zip Code

B. For Attorneys

Date of signing: _____, 20__.

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm